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8 **UNITED STATES DISTRICT COURT**
 9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 IN RE: UBER TECHNOLOGIES, INC.
 11 PASSENGER SEXUAL ASSAULT
 12 LITIGATION

13 This Document Relates to:

14 T.T. v. Uber Technologies, Inc., et al., No. 3:25-
 cv- 04647-CRB

15 S.Y. v. Uber Technologies, Inc., et al., No. 3:25-
 cv- 04629-CRB

16 C.B. v. Uber Technologies, Inc., et al., No. 3:25-
 cv- 01961-CRB

Case 3:23-md-03084-CRB

Honorable Charles R. Breyer

**PLAINTIFFS' REONSE TO DEFENDANTS
 UBER TECHNOLOGIES, INC., RASIER,
 LLC, AND RASIER-CA, LLC'S MOTION TO
 DISMISS CASES FOR FAILURE TO
 COMPLY WITH COURT ORDER**

Date: October 3, 2025
 Time: 10:00 a.m.
 Courtroom: 6-17th Floor

19 **I. INTRODUCTION**

20 On August 11, 2025, Defendants filed a Motion to Dismiss cases of Plaintiffs who did not file a
 21 Plaintiff Fact Sheet (“PFS”) in connection with Pretrial Order (“PTO”) 10. (Doc. 3493). Counsel
 22 acknowledges and understands that under PTO 10, the Court created procedures and deadlines to
 23 produce a PFS. Counsel has and continues to diligently comply with discovery obligations. Plaintiffs
 24 can become unavailable for a variety of reasons during litigation, especially when said plaintiff is the
 25 survivor of a sexual assault. Counsel continues to try to obtain a completed PFS from three outstanding
 26 clients.

II. ARGUMENT

a. *The Court should deny Uber's Motion to Dismiss as procedurally improper.*

Rule 37 supplies the Court with a panoply of options for dealing with discovery disputes. Within that rubric, dismissal – let alone dismiss with prejudice – is the most “drastic sanction” that due process reserves for “non-compliance...due to willfulness, fault or bad faith” alone. *Signalo v. Mendoza*, 642 F.2d 309, 310 (9th Circ. 1981). Uber has not even tried to make the requisite showing of “flagrant disregard” here, which dooms their motion and the bespoke procedure it envisions. *Id.* (citation omitted). Uber could have developed an appropriate record in support of its position had it followed proper procedure and sought an order to show cause. Instead, Defendants prematurely filed the present motion, which must therefore be denied.

b. The Court should not dismiss these cases with prejudice.

In the event the Court is inclined to grant Uber’s Motion to Dismiss, it cannot dismiss with prejudice in this context. Dismissing with prejudice goes against the Malone factors as discussed by Uber and other Plaintiffs’ firms in response to the Motion to Dismiss. Here, Plaintiffs state the quiet out loud: dismissing with prejudice is premature as these are survivors of sexual assault speaking out against one of the largest corporations on the planet. While the appropriate safeguards to discovery must be followed for the truth-seeking process, the practical reality is that these humans have suffered grave harm but are not part of the current bellwether trial. There is no real prejudice to Uber that warrants dismissal with prejudice. Meanwhile, the process of producing a PFS is a multifaceted task that requires a survivor to confront their traumatizing experience head on and it is often uncomfortable and overwhelming. Counsel will continue its efforts with plaintiffs to produce their PFS.

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request this Court DENY Uber's Motion to Dismiss as procedurally improper. In the alternative, counsel requests that Plaintiffs T.T., S.Y., and C.B. do not be dismissed with prejudice.

DATED: August 20, 2025

Respectfully submitted,

/s/ Sommer D. Luther
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CERTIFICATE OF SERVICE

I hereby certify that, on August 20, 2025, I electronically filed the following with the Clerk of the Court using the CM/ECF system, which will send notification of such filing via electronic mail to all counsel of record as maintained in the CM/ECF electronic system.

Dated: August 20, 2025

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PROOF OF SERVICE

I, the undersigned, declare: I am a citizen of the United States, over 18 years of age and not a party to the within action. My business mailing address is 940 Lincoln Street, Denver, CO 80203.

On the date specified below, I served a copy of the foregoing document described as:

**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION TO DISMISS CASES FOR
FAILURE TO COMPLY WITH COURT ORDER**

To be served by providing a true copy thereof addressed to each of the persons named below:

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4 **[X] BY ELECTRONIC TRANSMISSION ONLY:** By emailing the document(s) to the persons at
5 the email address(es) listed above. No electronic message or other indication that the transmission
6 was unsuccessful was received within a reasonable time after the transmission.

7 I declare under penalty of perjury under the laws of the State of California that the above is true and
8 correct.

9 Executed August 20, 2025 in Denver, Colorado.

10 /s/ Theresa Fryan

11 Theresa Fryan
Paralegal